IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5904 of 1999

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JUBEDABEN BELIM - Petitioner(s)
Versus
GENERAL MANAGER W.RLY. & 2 - Respondent(s)

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Appearance :
MR MS TRIVEDI for Petitioner(s) : 1,
MRS VASAVDATTA BHATT for Respondent(s) : 1, 3,
MRS KRISHNA G RAWAL for Respondent(s) : 2,
MR TR MISHRA for Respondent(s) : 3,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 25/09/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

The petitioner is widow of deceased Belim, who died while on duty on 14.11.1993, leaving behind his widow – present petitioner and minor daughter as well as younger brother – present respondent No.3 – Noormohmed. Initially, on the death of Shri Behlim, his widow – the present petitioner filed Affidavit in favour of her brother-in-law Noormohmed – present respondent No.3 for giving him appointment on compassionate ground. However, later on she changed her version and submitted that her Affidavit was obtained by fraud and under pressure. The respondent No.3 was given appointment on compassionate ground in 1996. Aggrieved of that order of appointment given to her brother-in-law in 1996, the present petitioner had earlier approached the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad (for short "The Tribunal") by way of OA No. 170 of 1992. Thereupon the learned Tribunal directed the Railway Authority and make inquiry and submit Report in the matter by interim order dated 3.2.1997. Thereupon inquiry was made and the Report was submitted before the learned Tribunal by the Railway Authority. After considering the Report of the Railway Authority the learned Tribunal finally disposed of that OA No.170 of 1996. Thereafter, the petitioner filed another Application, being OA No.473 of 1997 which was disposed of by the learned Tribunal by its impugned order dated 6.7.1999 (Annexure:B) by directing the Railway Authority to conduct fresh inquiry in the matter and communicate its decision to both, the original applicant as well

as respondent No.3. This impugned decision dated 6.7.1999 (Annexure:B) is challenged by the present petitioner in this petition on several grounds.\

It may be stated that by a speaking Order dated 31.7.2001 the Division Bench of this Court directed the Tribunal to expedite the hearing of OA No.473/2000 and decide the same as early as possible and the parties were directed to place on record the copy of order passed by the Tribunal in the Application.

OA No. 473/2000 was filed by the present respondent No.3 – Noormohmed before the learned Tribunal challenging the impugned order dated 6.7.1999 and the order dated 24.4.2000. The said AO No.473 of 2000 was allowed by the learned Tribunal by its impugned Judgment and order dated 24.6.2002. For placing the said order on record, Civil Application No.2711 of 2004 was filed in this Special Civil Application and the prayer was granted by another Division Bench of this Court on 5.4.2004. Accordingly, impugned order dated 24.6.2002 passed in OA NO. 473 of 2002 has come on record.

After giving appointment to the respondent No.3 on compassionate ground, his appointment was cancelled in view of the litigation and, therefore, the respondent No.3 had challenged the order passed by the Railway Authority before the learned Tribunal by way of OA No.473 of 2000 which was allowed by the learned tribunal on 24.6.2002 and the impugned order of termination dated 6.7.2002 passed against the present respondent No.3 was quashed and set aside and

the respondents – Authorities were directed to reinstate the respondent No.3 in service with all consequential benefit. However, while passing the order the learned Tribunal has also ordered that 1/3rd of the current wages should be deducted from the salary of the applicant (respondent No.3) every month and be paid to Smt. Jubedaben – present petitioner. Thus, from the order dated 24.6.2002 passed by the learned tribunal in OA NO. 473 of 2000 it is clear that termination order dated 6.7.2002 passed by the Railway Authority, against the respondent No.3, which has given appointment on compassionate ground in 1996, was quashed and set aside by the learned Tribunal. In absence of any challenge in the said order, nothing survives in this petition.

Accordingly, this petition stands dismissed. Rule discharged. No order as to costs.

(B.J.SHETHNA,J.)

(M. D. SHAH, J.)

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